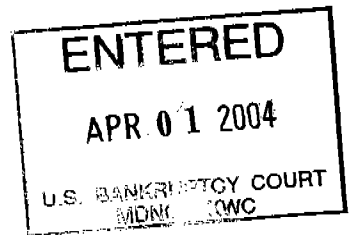


UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION



IN RE:)
)
John C. Miller and) Case No. 00-13004C-7G
Teresa Haith Miller,)
)
Debtor.)
)

ORDER

This case came before the court on March 30, 2004, for hearing upon the Trustee's objection to Claim No. 27 which was filed on behalf of Stearns Ford, Inc. in the amount of \$34,214.67. Charles M. Ivey, III appeared on behalf of the Trustee and E. Lawson Brown, Jr. appeared on behalf of Stearns Ford, Inc. Having considered the proof of claim filed on behalf of Stearns Ford, Inc., the Trustee's objection to such claim, the response to the objection filed on behalf of Stearns Ford, Inc., and the other matters of record in this case, the court finds and concludes as follows:

1. In approximately November of 2000, the Debtors purchased a 2000 Ford vehicle from Stearns Ford, Inc. in a transaction in which Ford Motor Credit Company financed the purchase price of the vehicle and purported to acquire a lien on the 2000 Ford Vehicle. Ford Motor Credit Company financed the purchase of the 2000 Ford vehicle with recourse against Stearns Ford, Inc.

2. On December 13, 2000, the Debtors filed a Chapter 13 case in this court.

3. During the Chapter 13 case, Ford Motor Credit Company

filed a claim for the balance owed by the Debtors on the purchase price of the 2000 Ford vehicle which was filed as a secured claim.

4. On November 5, 2001, the Debtors' Chapter 13 case was converted to a case under Chapter 7. During the pendency of the Chapter 7 case, the Chapter 7 Trustee in this case entered into a settlement with Ford Motor Credit Company with respect to its claim involving the 2000 Ford vehicle which was approved by an order that was entered on August 23, 2002. Pursuant to the settlement as approved in this case, Ford Motor Credit Company waived and released any and all claims against the bankruptcy estate in this case.

6. On November 14, 2002, Stearns Ford, Inc. filed a proof of claim in this case in the amount of \$34,214.67, purportedly representing the amount owed in connection with Debtors' purchase of the 2000 Ford vehicle. The claim by Stearns Ford, Inc. was filed as a result of Ford Motor Credit Company having exercised its recourse rights against Stearns Ford, Inc. and purporting to assign the Debtors' contract back to Stearns Ford, Inc. and charging back to Stearns Ford, Inc. the unpaid balance owed for the purchase of the 2002 Ford vehicle. However, pursuant to the settlement between the Trustee and Ford Motor Credit Company, Ford Motor Credit Company previously released any and all claims which it had in this case and, therefore, had no rights to assign to Stearns Ford, Inc. As a result, Stearns Ford, Inc. did not acquire any

rights against the bankruptcy estate in the recourse transaction involving Ford Motor Credit Company and Stearns Ford, Inc. therefore has no rights against the estate in this case. Accordingly, the Trustee's objection to the proof of claim of Stearns Ford, Inc. should be sustained and the proof of claim filed by Stearns Ford, Inc. should be disallowed.

IT IS SO ORDERED.

This 31st day of March, 2004.

William L. Stocks

WILLIAM L. STOCKS
United States Bankruptcy Judge